

## Message Text

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ACTION NEA-09

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-03 H-01 INR-07 L-02

NSAE-00 NSC-05 PA-01 RSC-01 PRS-01 SP-02 SS-15

USIA-06 OMB-01 IO-10 EB-07 AID-05 SCS-03 MC-01 /081 W

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R 060520Z JAN 75

FM AMEMBASSY DACCA

TO SECSTATE WASHDC 5338

INFO AMCONSUL CALCUTTA

AMEMBASSY NEW DELHI

C O N F I D E N T I A L DACCA 0058

E.O. 11652: GDS

TAGS: PINT, BG

SUBJECT: EMERGENCY POWERS DELINEATED

SUMMARY: THE BANGLADESH GOVERNMENT (BDG) HAS ISSUED RULES DELINEATING THE EXTRAORDINARY POWERS IT HAS CONFERRED ON ITSELF. THEIR SCOPE AND CHARACTER ARE A REMINDER OF DEMOCRACY'S FRAGILITY HERE. END SUMMARY.

1. BDG ISSUED EMERGENCY POWERS RULES JANUARY 3 UNDER AUTHORITY OF EMERGENCY POWERS ORDINANCE (DACCA 5885) WHICH REVEAL IN DETAIL ITS DECISION TO EXERCISE EXTREMELY WIDE POWERS IN FULFILLMENT OF ITS STATED INTENTION TO RESTORE LAW AND ORDER AND END SMUGGLING, BLACK MARKETEERING AND OTHER ECONOMIC CRIMES. HOWEVER, AS READING OF RULES QUICKLY REVEALS, OF SIXTEEN CLASSES OF ACTIVITY MADE SUBJECT TO EXTRAORDINARY CONTROLS, ONLY SIX DEAL IN PART OR IN WHOLE WITH ECONOMIC CRIMES WHILE ALL BUT ONE OF REMAINDER PLACE RESTRAINTS ON INDIVIDUAL LIBERTIES. (ODD ITEM PROSCRIBES CARRYING OR POSSESSION OF FIREARMS AND EXPLOSIVES.)

2. ECONOMIC CRIMES TEND TO RECEIVE TOUGHER TREATMENT. MOST STRINGENT PENALTY--DEATH-- IS RESERVED FOR SABOTAGE

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AND SMUGGLING. RECEIPT OF PROPERTY AS RESULT OF SABOTAGE,

HOWEVER, CARRIES 14 YEAR SENTENCE. REGARDING OTHER ECONOMIC CRIMES, EFFORTS TO MAINTAIN TRADE UNION ACTIVITY IN FACE OF ORDER FOR DISSOLUTION OF UNION ARE PUNISHABLE BY SEVEN YEARS IMPRISONMENT ALTHOUGH PARTICIPATION IN A STRIKE (OR LOCKOUT) RISKS ONLY THREE YEARS.

3. WHILE POSSIBLE SENTENCES FOR PROSCRIBED ACTS INVOLVING CIVIL LIBERTIES ARE OF LESSER DURATION, THE CHARACTER OF THE ACTS AND THE LENGTH OF THE SENTENCES ARE INDICATIVE OF THE BDG'S STARK VIEW OF ITS NEEDS. MOVEMENT OF PERSONS CAN BE SHARPLY CIRCUMSCRIBED, AND FAILURE TO ADHERE TO ORDER DEFINING PLACE RISKS JAILING FOR SEVEN YEARS. AS IN CASE TRADE UNIONS, POLITICAL PARTIES CAN BE DISSOLVED, AND EFFORTS TO MAINTAIN ORGANIZATIONS INVOLVES SEVEN YEAR PRISON TERM. NEWSPAPERS CAN BE CLOSE FOR PRINTING "PREJUDICIAL REPORTS"; SUCH REPORTS ARE THOSE WHICH BDG DEEMS LIKELY TO, AMONG OTHER THINGS:

(A) PREJUDICE BANGLADESH'S RELATIONS WITH ANY "FOREIGN POWER";

(B) PREJUDICE INTERNAL SECURITY OR PUBLIC SAFETY;

(C) CAUSE DISAFFECTION WITHIN THE ARMED FORCES, OR INVOLVE SUBVERSION OF THEIR LOYALTIES;

(D) INSTIGATE STRIKES;

(E) PROMOTE CLASS OR COMMUNAL STRIFE; AND

(F) "BRING INTO HATRED, CONTEMPT, OR TO EXCITE DISAFFECTION TOWARDS, THE GOVERNMENT ESTABLISHED BY LAW IN BANGLADESH."

IN ADDITION , ANYONE DISSEMINATING SUCH REPORTS CAN BE IMPRISONED FOR TEN YEARS. CENSORSHIP IS PERMITTED, AS IN THE INTERCEPTION OF MAIL; ATTEMPTS TO CIRCUMVENT THESE CAN COST FIVE YEARS. HOLDING A MEETING WITHOUT PERMISSION IS WORTH THREE YEARS. EVEN PRACTITIONERS OF POLITICAL GRAFFITY ARE LIABLE FOR SIX MONTHS IN JAIL.  
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4. IN ADDITION TO PROSCRIBING CERTAIN ACTS, THE RULES PRESCRIBE CERTAIN BEHAVIOR. UNLESS ONE IS REQUIRED TO SPEND SIX MONTHS IN JAIL, IT IS NECESSARY WHEN ORDERED TO SERVE AS A SPECIAL POLICEMAN, THUS RENDERING ONESELF LIABLE FOR WHATEVER PENALTY MAY ACCRUE FROM ANY BREACH OF DUTY. LIKEWISE, THE GOVERNMENT IS EMPOWERED TO REQUIRE "ANY PERSON TO FURNISH OR PRODUCE...ANY INFORMATION OR

ARTICLE...WHICH THE GOVERNMENT CONSIDERS IT NECESSARY OR EXPEDIENT FOR THE SECURITY, THE PUBLIC SAFETY OR INTEREST OF BANGLADESH TO OBTAIN OR EXAMINE;" THERE IS NO SAFE-GUARD AGAINST SELF-INCRIMINATION BUT ONLY THE PROSPECT OF THREE YEARS IN JAIL FOR FAILURE TO COMPLY. FINALLY, THE BURDEN OF PROVING THAT ANY ALLEGED ACT IS NOT SUBJECT TO THE RULES IS PLACED ON THE ACCUSED; HE IS PRESUMED GUILTY UNTIL HE CAN DEMONSTRATE THE CONTRARY.

5. SINCE THE RULES MAY HAVE OVERLOOKED SOME ACTS OR CALL OF ACTS, THEY CLOSE SUCH LOOPHOLES BY EMPOWERING POICE OFFICERS, OR OTHER OFFICERS AUTHORIZED BY GOVERNMENT, TO ARREST WITHOUT WARRANT ANY PERSON "REASONABLY" SUSPECTED OF "HAVING ACTED, OF ACTING OR BEING ABOUT TO ACT IN A MANNER PREJUDICIAL TO THE SECURITY, PUBLIC SAFETY OR INTEREST OF BANGLADESH" OR THE MAINTENCANCE OF ESSENTIAL SUPPLIES AND SERVICES. NO ONE SO ARRESTED MAY BE HELD MORE THAN FIFTEEN DAYS WITHOUT AN ORDER BY GOVERNMENT BUT THIS REQUIREMENT CAN BE EASILY MET.

6. COMMENT: THE BDG HAS CLEARLY ARMED ITSELF WITH MORE THAN ADEQUATE POWERS TO ACCOMPLISH ITS STATED ENDS. IF IT NOW MOVES WITH DELIBERATION AND IMPARTIALITY TO IMPROVE INTERNAL SECURITY AND HALT SMUGGLING AND BLACK-MARKETEERING, THE FACT THAT IT HAS CONFERRED UPON ITSELF FAR BROADER POWERS THAN WOULD SEEM REQUIRED WILL BE LARGELY OVERLOOKED. HOWEVER, THE LIMITATIONS IT HAS IMPOSED ON CIVIL LIBERTIES APPEAR TO BE SO EXTENSIVE AS TO REINFORCE SPECULATION THAT BANGLADESH IS MOVING CLOSER TO SOME FORM OF AUTHORITARIAN RULE.  
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**TAGS:** PINT, BG  
**To:** STATE  
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